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10/021,100	10/30/2001	Thomas D. Petite	081607-1230	8966

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EXAMINER

DOAN, DUYEN MY

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,100

Applicant(s)

PETITE, THOMAS D.

Examiner

Duyen M Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/14/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detail Action

Claims 1-53 are presented for examination.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. **Claims 1- 53** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-93 of U.S. Patent No. 6671586 Although the conflicting claims are not identical, they are not patentably distinct from each other, because they are directed to substantially the same invention and recites only obvious differences. The differences between two are that the application, 10021100, network of transceivers for controlling and generating pollution

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information whereas the Patent No. 6671586 controlling demand in an energy delivery system.

The corresponding claims are as follows:

Application, 10021100	Patent No. 6671586
A system ... plurality of transceivers connected to a network, identification code, detector, pollution management Controller	A system... plurality of transceivers connected to a network, identification code, meter, energy management controller

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have the system for controlling the power demand in patent number 6671586 for controlling and generating pollution information messages in application number 10021100 for the purpose of using the same system for different application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sivavec et al (us pat 6491828) and Ayerst et al (us pat 6069886).

As applied to claim 1, Sivavec et al discloses at least one transceiver having a first identification code and coupled to a detector configured to detect pollution, the transceiver configured to generate a pollution information message (col.4, line 40-67, figure 2);

A transceiver network, the transceiver network further comprising: a plurality of network transceivers, each network transceiver having a unique identification code and configured to communicate the pollution information message with other network transceivers (col.4, line 40-67, col.5, line 1-20, fig 2);

At least one transceiver unit configured to communicate the pollution information message with at least one of the network transceivers (figure 2, transceiver unit 24);

At least one site controller coupled to the transceiver unit, the site controller configured to communicate the pollution information message between the transceiver unit and an intermediary communication system such that the pollution information message is communicated with a pollution monitoring management controller coupled to the intermediary communication system (col.5, line7-37, figure 2, control unit 22, and monitoring site 50).

Sivavec et al does not expressly disclose transceiver having the identification code.

Ayerst et al teach the transceiver having the identification code (col.24, line 61-67).

It would have been obvious to one with ordinary skill in the art at the time of the invention was made to combine the transceiver's identification code of Ayerst et al into the system of Sivavec et al for the purpose of determining the geographic location of the transceiver according to the identification code of the transceiver (see Ayerst col.24, line 66-67).

As regarding claim 2, Sivavec et al-Ayerst et al discloses intermediary communication system further comprises a portion of an Internet (see Sivavec et al, col.6, line 25-30).

As regarding claim 3, Sivavec et al-Ayerst et al discloses the intermediary communication system further comprises a portion of a digital communication system (see Sivavec et al, col.6, line 25-30).

As regarding claim 4, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a portion of a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 5, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet, a digital communication system and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 6, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 7, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet and a digital communication system (see Sivavec et al, col.6, line 25-30).

As regarding claim 8, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least a digital communication system and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 9, Sivavec et al-Ayerst et al disclose the transceiver is coupled to a pollution detecting device and is configured to generate the pollution information message in response to a signal received from the pollution detecting device (see Sivavec et al, figure 2, sensor 12, and transceiver 17).

As regarding claim 10, Sivavec et al-Ayerst et al disclose a memory residing in each one of the network transceivers and the transceiver such that a communication transmission path is defined by at least one of the unique identification codes of the network transceivers and the first identification code of the transceiver, the communication transmission path being used to identify a location of the transceiver (see Ayerst et al, col.24, line 61-67 (identification number), col.25, line 45-50 (transceiver's memory)). The same motivation was utilized in claim 1 applied equally well to claim 10.

As regarding claim 11, Sivavec et al-Ayerst et al disclose a memory residing in the transceiver such that the first identification code resides in the memory and such that the first identification code is included as a portion of the pollution information message, whereby the first identification code is used to identify the nature of the pollution (see Ayerst et al, col.24, line 61-67 (identification number), col.25, line 45-67 (transceiver's memory)). The same motivation was utilized in claim 1 applied equally well to claim 11.

As regarding claim 12, Sivavec et al disclose second transceiver having a second identification code and coupled to an electric distribution system, the second transceiver configured to communicate pollution information with the detector using a power line carrier (PLC) signal communicated over the electric distribution system, and further configured to communicate the pollution information message with at least one of the network transceivers (col.4, lines 40-67, col.5, lines 1-5).

As regarding claim 13, Sivavec et al disclose an interface configured to receive the pollution information message communicated though an intermediary communication system coupled to the interface (col.5, line 7-37, figure 2, communication unit 21, communication link 30); a memory having data, the data including at least an identification code corresponding to the transceiver's unique identification code (col.5, line 7-67); a processor coupled to the interface and the memory, and configured to associate the received pollution information message and the data by associating the unique identification code of the transceiver with the

identification code of the data(col.5, line 7-67).

Sivavec et al does not expressly disclose the pollution information message having at least the unique identification code of the transceiver.

Ayerst et al teach the pollution information message having at least the unique identification code of the transceiver (col.24, line 61-67).

It would have been obvious to one with ordinary skill in the art at the time of the invention was made to combine the transceiver's identification code of Ayerst et al into the system of Sivavec et al for the purpose of determining the geographic location of the transceiver according to the identification code of the transceiver (see Ayerst col.24, line 66-67).

As regarding claim 14, Sivavec et al-Ayerst et al disclose a connection coupled to the processor and configured to communicate information corresponding to the pollution information message and the associated data such that information associated with a pollution event is communicated (see Sivavec et al, col.5, line 48-67, col.6, line 1-30).

As regarding claim 15, Sivavec et al-Ayerst et al disclose the associated data further includes information of interest that indicates the nature of a detected pollution event (see Sivavec et al col.6, line 1-30).

As regarding claim 16, Sivavec et al-Ayerst et al disclose the information of interest further includes location information of the transceiver (see Sivavec et al col.6, line 1-30).

As regarding claim 17, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a portion of an Internet (see Sivavec et al, col.6, line 25-30).

As regarding claim 18, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a portion of a digital communication system (see Sivavec et al, col.6, line 25-30).

As regarding claim 19, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a portion of a digital communication system (see Sivavec et al, col.6, line 25-30).

As regarding claim 20, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet, a digital communication system and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 21, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 22, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least an Internet and a digital communication system (see Sivavec et al, col.6, line 25-30).

As regarding claim 23, Sivavec et al-Ayerst et al disclose the intermediary communication system further comprises a combination of portions of at least a digital

communication system and a public switched telephone network (see Sivavec et al, col.6, line 25-30).

As regarding claim 24, the claim limitation is similar to claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 25, Sivavec et al disclose generating a pollution information message with a transceiver (col.4, line 40-67); and communicating the pollution information message from the transceiver to a network transceiver such that the pollution information message is communicated over an intermediary communication system to a pollution monitoring management controller (col.5, line 7-37, col.6, line 7-67).

Sivavec et al does not expressly disclose the pollution information message having at least an identification code uniquely assigned to the transceiver.

Ayerst et al teach the pollution information message having at least an identification code uniquely assigned to the transceiver (col.24, line 61-67).

It would have been obvious to one with ordinary skill in the art at the time of the invention was made to combine the transceiver's identification code of Ayerst et al into the method of Sivavec et al for the purpose of determining the geographic location of the transceiver according to the identification code of the transceiver (see Ayerst col.24, line 66-67).

As regarding claim 26, Sivavec et al-Ayerst et al disclose communicating the pollution information message onto the intermediary communication system (see Sivavec, col.5, line 7-37).

As regarding claim 27, Sivavec et al-Ayerst et al disclose the step of communicating the pollution information message onto the intermediary communication system further comprises the step of converting the pollution information message into a suitable Internet signal, and wherein the intermediary communication system is a portion of an Internet (see Sivavec et al col.5, line 7-37, col.6, line 20-30).

As regarding claim 28, Sivavec et al-Ayerst et al disclose the step of converting the pollution information message into a suitable digital signal, and wherein the intermediary communication system is a portion of a digital communication system (see Sivavec et al col.5, line 7-37, col.6, line 20-30).

As regarding claim 29, Sivavec et al-Ayerst et al disclose the step of converting the pollution information message into a suitable telephone signal, and wherein the intermediary communication system is a portion of a public switched telephone network (see Sivavec et al col.5, line 7-37, col.6, line 20-30).

As regarding claim 30, Sivavec et al-Ayerst et al disclose the step of converting the pollution information message into a suitable Internet signal, and wherein the intermediary communication system is a portion of at least an Internet, a digital communication system and a public switched telephone network (see Sivavec et al col.5, line 7-37, col.6, line 20-30).

As regarding claim 31, Sivavec et al-Ayerst et al disclose a combination of portions of at least an Internet and a public switched telephone network (see Sivavec et al, col.6, lines 25-30).

As regarding claim 32, Sivavec et al-Ayerst et al disclose a combination of portions of at least an Internet and a digital communication system (see Sivavec et al, col.6, lines 25-30).

As regarding claim 33, Sivavec et al-Ayerst et al disclose a combination of portions of at least a digital communication system and a public switched telephone network (see Sivavec et al, col.6, lines 25-30).

As regarding claim 34, Sivavec et al-Ayerst et al disclose receiving a signal from a detector configured to detect pollution such that the step of generating the pollution information message is made in response to the step of receiving the signal from the detector (see Sivavec et al, col.4, lines 40-67, figure 2, sensor and transceiver).

As regarding claim 35, Sivavec et al-Ayerst et al disclose of receiving a signal from a mobile detector configured to detect pollution such that the step of generating the pollution information message and such that a location of the mobile detector is approximated by location information associated with the identification code of the transceiver (col.4, lines 40-67).

As regarding claim 36, Sivavec et al disclose receiving a pollution information message broadcasted from a transceiver (col.5, lines 7-37), determining information relevant to the received pollution information message by associating the information with the identification code of the transceiver; and communicating the pollution information message and the relevant information such that a person is made aware of the received pollution information message (col.6, lines 4-

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36).

Sivavec et al does not expressly disclose the pollution information message having at least an identification code uniquely assigned to the transceiver.

Ayerst et al teach the pollution information message having at least an identification code uniquely assigned to the transceiver (col.24, lines 61-67).

It would have been obvious to one with ordinary skill in the art at the time of the invention was made to combine the transceiver's identification code of Ayerst et al into the method of Sivavec et al for the purpose of determining the geographic location of the transceiver according to the identification code of the transceiver (see Ayerst col.24, line 66-67).

As regarding claim 37, Sivavec et al-Ayerst et al disclose determining a location of the transceiver by associating an address residing in a database with the identification code of the transceiver (see Sivavec et al, col.5, line 22-37).

As regarding claim 38, Sivavec et al-Ayerst et al disclose determining information regarding the nature of the pollution information by associating information residing in a database with the identification code of the transceiver (see Sivavec et al, col.5, line 7-37, Ayerst et al teach the identification code of transceiver in claim 36). The same motivation was utilized in claim 36 applied equally well to claim 38.

As regarding claim 39, Sivavec et al-Ayerst et al disclose determining a person to be contacted by associating information in a database regarding the person with the identification code of the transceiver (see Sivavec et al, col.5, lines 7-37, col.6, lines 20-

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36, Ayerst et al teach the identification code of transceiver in claim 36). The same motivation was utilized in claim 36 applied equally well to claim 39.

As regarding claim 40, Sivavec et al-Ayerst et al disclose determining a nature of a pollution discharge by associating information residing in a database regarding a detector configured to detect pollution coupled to the transceiver with the identification code of the transceiver (see Sivavec et al, col.5, line 7-37). Ayerst et al teach the identification code of transceiver in claim 36, the same motivation was utilized in claim 36 applied equally well to claim 40.

As regarding claim 41, Sivavec et al-Ayerst et al disclose receiving a second pollution information message from a second transceiver; and determining information relevant to the received second pollution information message by associating the information with the identification code of the second transceiver (see Sivavec et al col.5, line 7-67). Ayerst et al teach the identification code of the transceiver in claim 36, the same motivation was utilized in claim 36 applied equally well to claim 41.

As regarding claim 42, Sivavec et al-Ayerst et al disclose communicating the second pollution information message and the relevant information such that a person is made aware of the received second pollution information message (see Sivavec et al, col.5, lines 7-37, col.6, lines 20-36, Ayerst et al teach the identification code of transceiver in claim 36). The same motivation was utilized in claim 36 applied equally well to claim 42.

As regarding claim 43, the limitations are similar to claim 25, therefore rejected for the same rationale as claim 25.

As regarding claim 44, the limitations are similar to claim 26, therefore rejected for the same rationale as claim 26.

As regarding claim 45, the limitations are similar to claim 27, therefore rejected for the same rationale as claim 27.

As regarding claim 46, the limitations are similar to claim 28, therefore rejected for the same rationale as claim 28.

As regarding claim 47, the limitations are similar to claim 29, therefore rejected for the same rationale as claim 29.

As regarding claim 48, the limitations are similar to claim 30, therefore rejected for the same rationale as claim 30.

As regarding claim 49, the limitations are similar to claim 34, therefore rejected for the same rationale as claim 34.

As regarding claim 50, the limitations are similar to claim 36, therefore rejected for the same rationale as claim 36.

As regarding claim 51, the limitations are similar to claim 37, therefore rejected for the same rationale as claim 37.

As regarding claim 52, the limitations are similar to claim 38, therefore rejected for the same rationale as claim 38.

As regarding claim 53, Sivavec et al disclose analyzing a pollution information message broadcasted from a transceiver (col.5, line 7-37; determining information relevant to the received pollution information message by associating the information with the identification code of the transceiver; and generating a second pollution

information message having the pollution information message and the relevant information such that a person is made aware of the received pollution information message (col.5, lines 7-67, col.6, lines 4-67).

Sivavec et al does not expressly disclose the pollution information message having at least an identification code uniquely assigned to the transceiver.

Ayerst et al teach the pollution information message having at least an identification code uniquely assigned to the transceiver (col.24, lines 61-67).

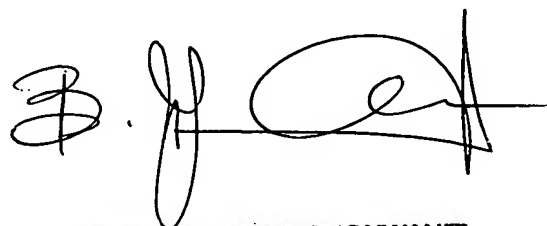
It would have been obvious to one with ordinary skill in the art at the time of the invention was made to combine the transceiver's identification code of Ayerst et al into the method of Sivavec et al for the purpose of determining the geographic location of the transceiver according to the identification code of the transceiver (see Ayerst col.24, line 66-67).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
Duyen Doan
Art unit 2143
DD



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER